

Railroad Retirement Board

§ 220.58

by the same physician or psychologist used in the initial claim.

(b) Where the evidence tends to substantiate an affirmation of the initial denial but the claimant states that the treating physician or psychologist considers him or her to be disabled, the Board will assist the claimant in securing medical reports or records from the treating physician.

§ 220.56 Securing medical evidence at the hearings officer hearing level.

(a) Where there is a conflict in the medical evidence at the hearing level of review before a hearings officer, the hearings officer will try to resolve it by comparing the persuasiveness and value of the conflicting evidence. The hearings officer's reasoning will be explained in the decision rationale. Where such resolution is not possible, the hearings officer will secure additional medical evidence (e.g., clinical findings, laboratory test, diagnosis, prognosis, etc.) to resolve the conflict. Even in the absence of a conflict, the hearings officer will also secure additional medical evidence when the file does not contain findings, laboratory tests, a diagnosis, or a prognosis necessary for a decision.

(b) Before requesting a consultative examination, the hearings officer will ascertain whether the information is available as a result of a recent examination by any of the claimant's medical sources. If it is, the hearings officer will request the evidence from that medical practitioner. If contact with the medical source is not productive for any reason, or if there is no recent examination by a medical source, the hearings officer will obtain a consultative examination.

§ 220.57 Types of purchased examinations and selection of sources.

(a) *Additional evidence needed for disability determination.* The types of examinations and tests the Board will purchase depends upon the additional evidence needed for the disability determination. The Board will purchase only the specific evidence needed. For example, if special tests (such as X-rays, blood studies, or EKG) will furnish the additional evidence needed for the disability determination, a more

comprehensive medical examination will not be authorized.

(b) *The physician or psychologist selected to do the examination or test must be qualified.* The physician's or psychologist's qualifications must indicate that the physician or psychologist is currently licensed in the State and has the training and experience to perform the type of examination or test requested. The physician or psychologist may use support staff to help perform the examination. Any such support staff must meet appropriate licensing or certification requirements of the State. See also § 220.64.

§ 220.58 Objections to the designated physician or psychologist.

A claimant or his or her representative may object to his or her being examined by a designated physician or psychologist. If there is a good reason for the objection, the Board will schedule the examination with another physician or psychologist. A good reason may be where the consultative examination physician or psychologist had previously represented an interest adverse to the claimant. For example, the physician or psychologist may have represented the claimant's employer in a worker's compensation case or may have been involved in an insurance claim or legal action adverse to the claimant. Other things the Board will consider are: language barrier, office location of consultative examination physician or psychologist (2nd floor, no elevator, etc.), travel restrictions, and examination by the physician or psychologist in connection with a previous unfavorable determination. If the objection is because a physician or psychologist allegedly "lacks objectivity" (in general, but not in relation to the claimant personally) the Board will review the allegations. To avoid a delay in processing the claimant's claim, the consultative examination in such a case will be changed to another physician or psychologist while a review is being conducted. Any objection to use of the substitute physician or psychologist will be handled in the same manner. However, if the Board or the Social Security Administration had previously conducted such a review and